

# United States Department of Agriculture,

OFFICE OF THE SECRETARY.

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## NOTICE OF JUDGMENT NO. 2582.

(Given pursuant to section 4 of the Food and Drugs Act.)

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**U. S. v. Schallinger Produce Co. Plea of guilty. Fine, \$25 and costs.**

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### MISBRANDING OF BUTTER.

On November 6, 1912, the United States Attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Schallinger Produce Co., a corporation, Spokane, Wash., alleging shipment by said company, in violation of the Food and Drugs Act, on or about April 18, 1912, from the State of Washington into the State of Idaho, of a quantity of butter which was misbranded. The product was labeled: "Cascade Pasteurized Butter. This Butter is made of pure Pasteurized Cream. Pasteurization destroys all bacteria and other impurities and adds materially to the keeping quality of butter. When 'Cascade' butter is placed in this air tight, germ proof carton, purity and cleanliness are assured. Cascade Pasteurized Creamery Butter. Full weight 15 oz. net, 16 oz. gross. 16 oz.—Schallinger Produce Company, Distributors, Spokane, Washington."

Examination of samples of the product by the Bureau of Chemistry of this Department showed the following results: Water, 13.09 per cent foam test; not process butter; boric acid, none. (Sample No. 1) Gross weight,  $16\frac{1}{2}$  ounces; tare,  $2\frac{1}{2}$  ounces; net weight, 14 ounces. (Sample No. 2) Gross weight,  $16\frac{1}{2}$  ounces; tare, 2 ounces; net weight,  $14\frac{1}{2}$  ounces. (Sample No. 3) Gross weight,  $15\frac{3}{4}$  ounces; tare,  $2\frac{1}{4}$  ounces; net weight,  $13\frac{1}{2}$  ounces. (Sample No. 4) Gross weight, 16 ounces; tare,  $2\frac{1}{4}$  ounces; net weight,  $13\frac{3}{4}$  ounces. Average net weight, 13.94 ounces; short weight, 2.06 ounces or 1.06 ounces, 12.88 per cent or 6.62 per cent. Misbranding of the product was alleged in the information for the reason that there was marked upon each package or carton the weight of the contents thereof, to wit, "Full weight, 15 oz. net, 16 oz. gross," and "16 oz.," which labeling was false and misleading, in that the contents of said cartons upon

which such statements appeared were all less weight than so labeled, to wit, varying from  $13\frac{1}{2}$  to  $14\frac{1}{2}$  ounces. Misbranding was alleged for the further reason that the packages were labeled and branded so as to deceive and mislead the purchaser, such labeling and branding tending to convey the impression that the contents thereof weighed 15 or 16 ounces, whereas in fact said cartons were found to contain less than the minimum weight set forth upon the packages, and said branding and labeling was false and misleading. Misbranding was further alleged for the reason that the product was packed and placed upon the market for sale in package form, as set forth above, and the contents of each of the packages were stated in terms to contain "15 oz. net, 16 oz. gross" and "16 oz.," which said statements as set forth upon each of the packages were false and untrue, as certain of the packages with the above labeling or branding thereon were found to contain less than the minimum weight set forth thereon.

On April 14, 1913, defendant company entered a plea of guilty to the information and the court imposed a fine of \$25 and costs of \$23.85.

B. T. GALLOWAY,  
*Acting Secretary of Agriculture.*

WASHINGTON, D. C., *September 12, 1913.*

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